



December 16, 1999

Ms. Mollie Childs  
Assistant Police Legal Advisor  
City of Arlington  
620 West Division Street  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR99-3649

Dear Ms. Childs:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID#131810.

The City of Arlington Police Department (the "department") received two requests for file number 99-9012141. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 excepts from disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution if release of the information would interfere with the detection, investigation or prosecution of crime.

You state that release of the requested information would interfere with a current investigation of a sexual assault case. Accordingly, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). We conclude, therefore, that section 552.108(a)(1) is applicable to the requested information.

We note, however, that information normally found on the front page of an offense report is generally considered public. *See* Gov't Code § 552.108(c); *Houston Chronicle*, 536 S.W.2d at 559; Open Records Decision No. 127 (1976). Thus, you must release the types of information that are considered to be front page offense report information, even if this information is not actually located on the front page of the offense report.

However, because the requested information contains information about an alleged sexual assault, certain front page offense report information is excepted from disclosure under section 552.101 of the Government Code. In sexual assault cases, section 552.101 excepts from public disclosure certain information that is not normally excepted under section 552.108. Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Under section 552.101, information may be withheld on the basis of common-law privacy. The doctrine of common-law privacy protects information if it is highly intimate or embarrassing such that its release would be highly objectionable to a reasonable person and the public has no legitimate interest in it. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Accordingly, you must withhold any information tending to identify the sexual assault victim pursuant to common-law privacy. *See* Open Records Decision Nos. 393 (1983), 339 (1982). We have marked the confidential identifying information. You must release all other front page offense report information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records;

2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script, appearing to read "Yen-Ha Le".

Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/nc

Ref: ID# 131810

Encl. Submitted documents

cc: Mr. Richard E. Glaser  
P.O. Box 457  
Trenton, Texas 75490  
(w/o enclosures)